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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,031	03/19/2004	Takeshi Mori	NPR-141	8901
20374	7590	06/29/2006		
KUBOVCIK & KUBOVCIK SUITE 710 900 17TH STREET NW WASHINGTON, DC 20006			EXAMINER SCHELL, LAURA C	
			ART UNIT 3767	PAPER NUMBER

DATE MAILED: 06/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/804,031

Applicant(s)

MORI, TAKESHI

Examiner

Laura C. Schell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-8 and 10-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-8 and 10-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following claim recitations "means for positioning the wing" in claims 7 and 8 are not considered as invoking 35 USC 112 6th paragraph as they do not meet the three prong test set forth in the MPEP 2181, particularly for reciting too much structure.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-8 and 10-14 rejected under 35 U.S.C. 103(a) as being unpatentable over Gollobin et al. (US Patent No. 5,330,438) in view of Hogan (US Patent No. 4,842,586). Gollobin discloses a protector sheath for a winged needle (Fig. 2) capable of accommodating a winged needle having a needle tube with a sharp blade edge, a hub firmly attached to a proximal end portion of the needle tube, and a wing provided on the hub, wherein the protector sheath (Fig. 4, 28) comprises a cylindrical main body (30), at least three slits (36, Figs. 9 and 10 disclose 3 and 5 slits respectively) provided in a side wall of the main body and dividing the side wall into a corresponding number of sections, and wherein each of said slits comprises a proximal end portion (near 30) having a slot with a closed end and capable of accommodating the wing of the winged needle (Fig. 8), a middle portion (35) parallel to the axis of the main body, and the

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proximal end portion of the slit being configured such that it receives the wing so that the needle tube of the winged needle is arranged parallel to the axis of the main body. Gollobin, however, does not disclose a curved distal end portion having a shallow V shape or arched shape. Hogan, discloses a protector sheath for a needle (Fig. 3, 30) with a cylindrical main body (30), at least three slits provided in a side all of the main body (slits 32 extend from the distal end of the sheath, along a portion of the side wall), and the slits have a curved distal portion (the slits 32 at the distal portion near 36 are curved) having a shallow V shape/arched shape, formed by a V shape (as can be seen in Fig. 3, the distal end is curved and has a shallow V shape/arched shape wherein this shape is formed by a V shape). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Gollobin with the curved slits of Hogan in order to provided slits that allow retraction of the needle within the sheath, while also providing slits that conform together due to their inter-fitting shapes to prevent the needle from extending through an opening.

Suggestions

Examiner suggests that Applicant amend the claims to include some language pertaining to the curved shapes of the slits being inter-fitting in nature, and that that curved part of the slits occurs along the side of the body spaced back from the distal end of the sheath.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Schell whose telephone number is (571) 272-7881. The examiner can normally be reached on Monday-Friday 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

Kevin C. Sirmons